

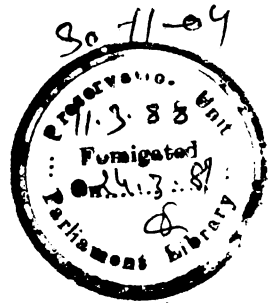
Thursday, 17th March, 1932

**THE
COUNCIL OF STATE DEBATES**

VOLUME I, 1932

(25th February to 6th April, 1932)

**THIRD SESSION
OF THE
THIRD COUNCIL OF STATE, 1932**



CALCUTTA : GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1932

CONTENTS.

	PAGES.
Thursday, 25th February, 1932—	
Members Sworn	1
Death of Sir Muhammad Shafi	1—3
Questions and Answers	3—16
Messages from His Excellency the Governor General	16—17
Committee on Petitions	17
Bills passed by the Legislative Assembly laid on the table	17
Code of Civil Procedure (Amendment) Bill—Introduced	18
Motion for the election of four non-official Members to the Standing Committee on Emigration—Adopted	18
Motion for the election of three Members to the Standing Committee on Roads—Adopted	18
Presentation of the Railway Budget	19—26
Congratulations to recipients of Honours	26
Saturday, 27th February, 1932—	
Questions and Answers	27—33
General Discussion of the Railway Budget	33—47
Elections to the Standing Committee on Emigration	47
Monday, 29th February, 1932—	
Members Sworn	49
Questions and Answers	49—51
Indian Partnership Bill—Considered and passed	52—60
Indian Companies (Supplementary Amendment) Bill—Considered and passed	61
Employers and Workmen (Disputes) Repealing Bill—Considered and passed	61—62
Wheat Import Duty (Extending) Bill—Considered and passed	62—63
Indian Finance (Supplementary and Extending) Amendment Bill—Considered and passed	63—64
Code of Civil Procedure (Amendment) Bill—Considered and passed	64
Wire and Wire Nail Industry (Protection) Bill—Considered and passed	65—67
Tuesday, 1st March, 1932—	
Questions and Answers	69—76
Resolution <i>re</i> Immediate introduction of provincial autonomy—Negatived	77—109
Resolution <i>re</i> Training of young scions of the houses of sardars, jahagirdars, inamdars, etc., for military service—Withdrawn	110—114
Resolution <i>re</i> Decrees passed by courts for interest—Withdrawn	115—119
Resolution <i>re</i> Repeal of the Child Marriage Restraint Act—Negatived	119—124
Wednesday, 2nd March, 1932—	
Bamboo Paper Industry (Protection) Bill—Considered and passed	125—130
Resolution <i>re</i> Hours of work in coal mines—Adopted	131—132

	PAGES.
Thursday, 3rd March, 1932—	
Questions and Answers	133—141
Resolution <i>re</i> Payment of gratuities to the families of Government servants who die before retirement—Withdrawn	141—145
Resolution <i>re</i> Appointment of a committee to advise on legislation affecting the personal and customary law of the Hindus—Withdrawn	145—150
Resolution <i>re</i> Education in the North-West Frontier Province and Baluchistan—Withdrawn	151—154
Monday, 7th March, 1932—	
Questions and Answers	155—156
Nominations for election to the Standing Committee for Roads	156
Motion for the election of six non-official Members to the Central Advisory Council for Railways—Adopted	156
Presentation of the General Budget for 1932-33	157—165
Tuesday, 8th March, 1932—	
Resolution <i>re</i> Purchase of all distress gold being exported to foreign countries—Negatived	167—179
Resolution <i>re</i> Mural decorations by Indian artists to Government buildings at New Delhi and India House, London—Withdrawn	179—192
Resolution <i>re</i> Separation of the Telugu districts of the Madras Presidency into a separate province—Withdrawn	192—197
Statement of Business	197
Friday, 11th March, 1932—	
General Discussion of the General Budget	199—227
Public Suits Validation Bill—Introduced	227
Date for the election of six Members to the Central Advisory Council for Railways	227—228
Monday, 14th March, 1932—	
Statement <i>re</i> Draft Convention and Recommendations concerning the protection against accidents of workers employed in loading or unloading ships adopted by the International Labour Conference at its Twelfth Session held in 1929	229—230
Motion for the election of two non-official Members to the Standing Committee to advise on subjects, other than "Indians Overseas—Emigration" and "Haj Pilgrimage," dealt with in the Department of Education, Health and Lands—Adopted	230
Public Suits Validation Bill—Considered and passed	230—231
Election of three Members to the Standing Committee for Roads	231
Resolution <i>re</i> Levy of income-tax on all pensions and compassionate allowances paid outside India—Negatived	231—236
Resolution <i>re</i> Levy of stamp duty on cheques drawn on banks and bankers in India—Withdrawn	237—238
Statement of Business	238
Tuesday, 15th March, 1932—	
Resolution <i>re</i> Procedure to be followed in dealing with the civil disobedience movement—Withdrawn	239—266

	PAGES.
Thursday, 17th March, 1932—	
Indian Life Assurance Companies (Amendment) Bill—Introduced	267
Resolution <i>re</i> Amendment of the Presidency Small Causes Courts Act—Withdrawn	267—271
Election of two non-official Members to the Standing Committee for the Department of Education, Health and Lands	271
Ballot for the election of six non-official Members to the Central Advisory Council for Railways	271
Thursday, 24th March, 1932—	
Members Sworn	273
Questions and Answers	273—276
Bill passed by the Legislative Assembly laid on the table	277
Statement (laid on the table) <i>re</i> Commercial Treaties and Notes affecting India	277
Resolution <i>re</i> Amendment of the Resolution on Roads adopted by the Council on the 4th March, 1930—Adopted	277—278
Resolution <i>re</i> Increased import duties on galvanized iron and steel pipes and sheets—Adopted	278—280
Statement of Business	280
Wednesday, 30th March, 1932—	
Member Sworn	281
Death of Mr. K. V. Rangaswamy Aiyangar	281—283
Salt Additional Import Duty (Extending) Bill—Considered and passed	283—288
Friday, 1st April, 1932—	
Bill passed by the Legislative Assembly laid on the table	289
Monday, 4th April, 1932—	
Bills passed by the Legislative Assembly laid on the table	291
Bengal Criminal Law Amendment (Supplementary) Bill—Not concluded	291—316
Tuesday, 5th April, 1932—	
Member Sworn	317
Short Notice Questions and Answers	317—318
Bills passed by the Legislative Assembly laid on the table	318
Message from the Legislative Assembly	318
Statement <i>re</i> Working of the Cape Town Agreement of 1927	318—329
Bengal Criminal Law Amendment (Supplementary) Bill—Considered and passed	330—336
Wednesday, 6th April, 1932—	
Member Sworn	337
Messages from the Legislative Assembly	337
Foreign Relations Bill—Considered and passed	337—340
Sugar Industry (Protection) Bill—Considered and passed	341—351
Indian Air Force Bill—Considered and passed	351—355
Indian Tariff (Wireless Broadcasting) Amendment Bill—Considered and passed	355—357

COUNCIL OF STATE.

Thursday, 17th March, 1932.

The Council met in the Council Chamber of the Council House at Eleven of the Clock, the Honourable the President in the Chair.

THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD (United Provinces Northern : Non-Muhammadan) : Sir, I do not propose to move for leave to introduce my Bill* to-day.

INDIAN LIFE ASSURANCE COMPANIES (AMENDMENT) BILL.

THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM (Bihar and Orissa : Muhammadan) : Sir, I rise to move for leave to introduce a Bill further to amend the Indian Life Assurance Companies Act, 1912. The reason for seeking leave to introduce this Bill is very simple. As I have stated in the Statement of Objects and Reasons, my object is to put a stop to the flight of capital, to ease the exchange, to strengthen the securities, and thereby to facilitate the Government's borrowings. The magnitude of business in life insurance is very great, and a sum of about Rs.8 crores is involved in annual premia in India. Therefore it is necessary that some sort of law should be passed by the Legislature to stop the flight of capital which is taking place from some of the non-Indian companies and some of the Indian companies as well. The Honourable the Finance Member himself felt the necessity for some law to tax monies invested outside India. I wish to mitigate his trouble and have some sort of law which will at least to a little extent stop the flight of capital from India to the outside world. Sir, with these few words I move for leave to introduce the Bill.

The motion was adopted.

THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM : Sir, I introduce the Bill.

RESOLUTION *RE* AMENDMENT OF THE PRESIDENCY SMALL CAUSES COURTS ACT.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTI (Madras : Non-Muhammadan) : Sir, I beg to move the following Resolution which stands in my name :

" This Council recommends to the Governor General in Council to amend the Presidency Small Causes Courts Act for the purpose of appointing honorary judges in the Presidency-towns, Bombay, Madras and Calcutta, for the disposal of cases to the value of Rs. 100 and below."

* A Bill to amend the Indian Police Act, V of 1861, section 34, clause 7, and the Indian Penal Code, Act XLV of 1860, section 294.

[Diwan Bahadur G. Narayanaswami Chetti.]

This is a modest Resolution and requires very few words of commendation from me. The experiment of appointing honorary magistrates for the disposal of criminal cases has been tried in almost every province and has proved to be an unqualified success. Even on the civil side, village courts and *panchayat* courts have for several years been at work in more than one province, and they are dealing with simple money suits of small value and have given considerable relief to salaried judges in the provinces in which they exist. Encouraged by the success of these experiments, I have brought this Resolution which recommends that in the places where the Presidency Small Causes Courts Act is in operation, steps should be taken to relieve the Presidency Small Cause Courts of all simple money suits of the value of less than Rs. 100 and to vest jurisdiction to try such suits in honorary judges of small causes. I cannot conceive of any serious objection being raised to this modest proposal. I know from intimate experience of my province at least that there are scores of retired officers and public-spirited gentlemen, with necessary leisure and ability, who would come forward for the purpose of taking up this work of honorary small cause judges. It is unnecessary that these judges should possess any considerable degree of legal knowledge. If even in the mofussil sufficient men can be obtained to act as *panchayatdars* in respect of small civil litigation, it cannot be seriously contended that in the metropolis of provinces men competent to deal with petty small causes cannot be obtained. After all it is only in exceptional cases that questions of law will arise, and in such cases suitable provision can be made to enable the parties to obtain a transfer, if so advised, to the stipendiary small cause judges. My proposal will relieve the Presidency small cause judges of a good deal of petty litigation and will enable them to devote themselves to superior work and also to have effective supervision on the execution of decrees in which there is considerable delay now. Looked at from every point of view, not only from the point of view of retrenchment but also from the utilitarian point of view, the Resolution ought to be accepted by the House. It is unnecessary for me to say anything further on the subject, because, as I have said, honorary presidency magistrates are working satisfactorily. Even in mofussil towns, there are honorary magistrates working satisfactorily. If we begin with the amendment of the Presidency Small Cause Courts Act and confine ourselves to the towns first, then the time may come to amend even the Provincial Small Cause Courts Act. Sir, I have much pleasure in moving the Resolution.

THE HONOURABLE SIR BROJENDRA MITTER (Law Member): Sir, the suggestion made in the Resolution is undoubtedly an attractive one and merits exploration. I desire, however, to point out to the House that this is a matter which relates to that part of the Provincial Subject of "Administration of Justice" which is not subject to legislation by the Indian Legislature. If Honourable Members will look at the Devolution Rules, Schedule I, Part II—Part II deals with Provincial Subjects—Item 17 is as follows:

"Administration of justice, including constitution, powers, maintenance and organisation of courts of civil and criminal jurisdiction within the province; subject to legislation by the Indian Legislature as regards High Courts, Chief Courts, and Courts of Judicial Commissioners, and any courts of criminal jurisdiction."

This being a matter which comes within the province of Provincial Legislatures, we cannot do anything here. The presidencies concerned must decide for themselves, and I venture to think that the Mover would perhaps better secure his object if he could persuade some Member in one or all the local

Councils of Bengal, Bombay and Madras to raise the question in his own province. Having regard to the Devolution Rules, the Government of India are not prepared to move actively in the matter as it is essentially one for the Local Governments themselves. Anyhow, a general discussion on this subject is welcome. I may mention that in some provinces there is a precedent in the honorary assistant collector who deals with rent and revenue cases. In the United Provinces, for example, honorary assistant collectors are disposing of minor rent and revenue cases. As I said, the suggestion is an attractive one, but it is not one for us to dispose of. A general discussion, however, may elicit views of Honourable Members and it must rest there. I hope after the general discussion the Mover will see fit to withdraw his Resolution.

THE HONOURABLE MR. BIJAY KUMAR BASU (Bengal: Nominated Non-Official): Sir, apart from the question raised by the Honourable the Law Member that the matter concerned in this Resolution is a matter for provincial legislatures to act upon, I personally do not see the real object of this Resolution. Is it the object to reduce the number of judges in these small causes courts or is it to relieve them of overwork? Sir, I have some experience of the Calcutta Court of Small Causes, and from my experience I can inform the House through you, Sir, that there is not much in the way of overwork there. There are seven judges in the Calcutta Small Causes Court and one Registrar, and between them—I have seen the daily list—they perhaps deal with not more than 500 cases daily. That is not a small amount of work to turn out in a day. Then, Sir, in former days it was necessary to have honorary magistrates when the British first came into this country. At that time there were very few stipendiary magistrates and the Government desired the public to take some share in the administration of criminal justice. There were men of light and leading in particular places and there were also men of influence. So in their position as honorary magistrates they helped the stipendiary magistrates, who were very few in number, at that time, to carry on their work satisfactorily. Nowadays, the stipendiary magistrates are much more efficient than they used to be, say, about 50 years ago. At least, in Calcutta, there are not more than half a dozen honorary presidency magistrates who really do the work of presidency magistrates.

Sir, when I saw this Resolution, it reminded me of a story which I heard when I was a little boy. It was a case in my province. A man was made an honorary magistrate and after putting in about 20 years of honorary service, or some such length of time, he died leaving a son. The son then approached the district magistrate with an application that he should be appointed an honorary magistrate because, as being the heir to the father, that was his father's only living. I am afraid, Sir, this proposal may lead to things of that nature. About overwork of the Small Causes Court judges, if the Honourable Mover will pardon me, Sir, I will relate another story that I heard when I was young. In the Calcutta Small Causes Court, at that time, there were a small number of judges—I think three or four—but there was a large amount of suits. Well, one day a certain judge got notice that one of the High Court Judges was coming to inspect his court. Upon this his *Peshkar* was all in a tremble; he did not know what to do. There were thousands and thousands of cases that were pending. The *peshkar* came up to his superior and said: "Sir, the High Court Judge is coming. What are we to do?" The Judge said: "Never mind". The *peshkar* added: "Sir, you are never going to finish all the cases before he comes." The Judge replied: "That is my business; I will look after it." The fateful day arrived. The next day the High Court Judge

[Mr. Bijay Kumar Basu.]

would come. The Small Cause Judge then called up the *peshkar* and told him : " My dear fellow ! you had better bring in two very big almirahs—that will do." The *peshkar* had them brought in. Then he told the *peshkar* : " Throw all the records of the Court pell mell into both of them." The *peshkar* acted as he was bid to do. Then the Judge came at about half-past four, just before going home, took a big piece of chalk and wrote " decreed " on one almirah and " dismissed " on the other !

Sir, these Rs. 100 small cause suits need not therefore be taken so seriously. I do not think, Sir, that it will serve any useful purpose to appoint honorary judges as suggested in the Resolution. I oppose the Resolution.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTI : Sir, from my experience of small causes courts in Madras, I find there is a lot of petty litigation of Rs. 20 and above which need not be tried by the stipendiary judges and we will be able to retrench the expenditure by reducing one stipendiary judge for each small cause case could be tried I think, where necessary, by retired officials, retired district judges, retired deputy collectors and retired district magistrates, if possible, They would be very willing to take up this honorary work as they have nothing to do after taking their pension. For instance, Madras City has got about 200 honorary magistrates. Some of them are non-officials, men of leisure who come in.....

THE HONOURABLE MR. BIJAY KUMAR BASU : Sir, are there official honorary magistrates in Madras ?

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTI : I said " retired ". They become non-officials after retirement. Therefore, Sir, I do not think there is any difficulty if at all in Government encouraging such honorary service being given.

THE HONOURABLE MR. BIJAY KUMAR BASU : May I inquire how many of these honorary magistrates in Madras really do work and how many of them are *nam-ke-wasthe* ?

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTI : There may be very few. You cannot get men of the type of Mr. Basu everywhere, of such a high level of intelligence, but still you have to carry on. Then, Sir, there is the execution work. The holder of a decree has insuperable difficulties to surmount at present before he can realise his decree. The difficulty is that he has to go about daily to court if he wants to get work done and see half a dozen clerks in the department.....

THE HONOURABLE MR. BIJAY KUMAR BASU : It will be aggravated if you have honorary judges.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTI : Therefore, I thought, Sir, that the judges may be relieved of such petty work. In the Madras Presidency you have got *panchayat* courts which are doing splendidly. Village courts are regularly trying suits below Rs. 20 and Rs. 25. They are also doing well. There will be no difficulty in getting the men. And then, Sir, you can gradually get better men to do the work. It will take time, but if it is successful it can be extended to the districts. For the time being we may confine the appointment of honorary judges to the

small cause courts of the Presidency-towns. That is why I say "Madras, Calcutta and Bombay". I think a number of retired officials who have nothing to do would be willing to do work of this sort. And therefore, Sir, I do not think there will be any difficulty in getting proper men. Mr. Basu has failed to convince me. Of course, some of them in the beginning may make mistakes, but honorary magistrates are already doing good criminal work.

THE HONOURABLE MR. BIJAY KUMAR BASU: Sir, does the Honourable Member realise that civil law is much more complicated than criminal law?

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTI: Sir, there is not much difficulty in civil law. These are small *ex parte* and petty cases.

THE HONOURABLE MR. BIJAY KUMAR BASU: My friend will have the "decreed" and "dismissed" type of judges.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTI: And, therefore, Sir, I do not think there is any difficulty from any point of view. However, as the Law Member thinks it is a matter for the provinces, I do not press my Resolution.

The Resolution was, by leave of the Council, withdrawn.

ELECTION OF TWO NON-OFFICIAL MEMBERS TO THE STANDING COMMITTEE FOR THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

THE HONOURABLE THE PRESIDENT: With reference to the election of two non-official Members to the Standing Committee for the Department of Education, Health and Lands, I have to declare the Honourable Sir David Devadoss and the Honourable Saiyed Mohamed Padshah Sahib Bahadur duly elected, those being the only two Members who have been nominated.

BALLOT FOR THE ELECTION OF SIX NON-OFFICIAL MEMBERS TO THE CENTRAL ADVISORY COUNCIL FOR RAILWAYS.

THE HONOURABLE THE PRESIDENT: The Council will now proceed to elect six non-official Members to serve on the Central Advisory Council for Railways.

I need not read out the names of the nine Honourable Members who have been nominated because the ballot papers will now be placed in Members' hands. As I said the other day, the election will be according to the principle of proportional representation by means of the single transferable vote. I think most Honourable Members are well aware of the procedure now, but perhaps it would be as well if they read the instructions at the foot of the ballot paper.

(Ballot papers were then distributed and Honourable Members recorded their votes.)

THE HONOURABLE THE PRESIDENT: As the Council will not meet again for a week, I shall have the result of the election, which takes a little time to work out, communicated to Honourable Members by circular as soon as conveniently possible.

The Council then adjourned till Eleven of the Clock on Thursday, the 24th March, 1932.